

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

DECISION AND ORDER

06-MR-44S

(06-MJ-64S)

STEVE WASHINGTON HUDSON,

Defendant.

1. On April 13, 2006, Defendant Steve Washington Hudson was arrested and charged by Criminal Complaint with illegally re-entering the United States after deportation in violation of 8 U.S.C. § 1326(a) and (b). Defendant is presently detained pending trial pursuant to an Order issued by United States Magistrate Judge H. Kenneth Schroeder. Before this Court is Defendant's Motion to Revoke Judge Schroeder's Detention Order pursuant to 18 U.S.C. § 3145(b).

2. The record reflects Judge Schroeder conducted a detention hearing on April 18, 2006, in accordance with 18 U.S.C. § 3142(f). At that time, Judge Schroeder entered an oral order granting the Government's motion for detention under that statute.

3. On April 24, 2006, Judge Schroeder filed a written Detention Order remanding the Defendant to the custody of the United States Marshal's Service pending trial. In his Detention Order, Judge Schroeder set forth the factors to be considered in the determination of a detention request as mandated by 18 U.S.C. § 3142(g). He concluded, however, that "the issue of bail or detention at this stage is basically moot in the context that, as has been represented, there is an outstanding warrant issued by the Ulster County Court of the State of New York which operates as a detainer and there is also a detainer

filed by the Department of Homeland Security.” (Det. Or., p 3). Until those two matters were resolved, Judge Schroeder declined to make a determination under 18 U.S.C. § 3142 “other than to grant the government’s motion subject to the right of the defendant to reapply upon changed circumstances.” (Det. Or., p. 3).

4. This Court finds that the requisite findings under 18 U.S.C. § 3142 should have been made, notwithstanding any separate predicate for Defendant’s detention. Accordingly,

IT HEREBY IS ORDERED that Defendant’s Appeal of the Magistrate Judge’s Detention Order/Motion to Revoke the Detention Order (Docket No. 1) is GRANTED.

FURTHER, that the April 24, 2006 Detention Order (06-MJ-64S, Docket No. 5) is VACATED.

FURTHER, that this matter is REMANDED to Judge Schroeder to make the requisite findings under 18 U.S.C. § 3142.

FURTHER, that Defendant shall continue to be detained pending Judge Schroeder’s resolution of the instant matter.

SO ORDERED.

Dated: May 12, 2006
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge